

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

WP(C).No. 26926 of 2007(E)

AGAINST THE ORDER IN OS.105/2002 IN
OS.107/2008 of SUB COURT, OTTAPPALAM

PETITIONER:

DR.SREEKUMAR,
KOCHUKANNAMPALLY VEEDU,
NAVAIKULAM, THIRUVANANTHAPURAM.

BY ADV. SRI.M.BALAGOVINDAN
SRI.M.R.SASITH

RESPONDENTS:

1. MAHBOOB, PUNNATHAZHATHU VEEDU,
NEAR MARKET, T.B.ROAD,
PATTAMBI, PALAKKAD DIST.
2. SUBAIR, PUNNATHAZHATHU VEEDU,
NEAR MARKET, T.B.ROAD,
PATTAMBI, PALAKKAD DIST.
3. RAVEENDRAN NAIR ALIAS RAVI,
OLIYIL VEEDU, PALLIPPURAM, KULAMUKKU,
PATTAMBI, PALAKKAD DIST.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

KSS

M.N.KRISHNAN, J

=====

W.P.(C) No.26926 OF 2007

=====

Dated this the 10th day of September 2007

JUDGMENT

This writ petition is filed seeking to issue a writ of certiorari to quash the order passed in I.A.No.1801/2007 in O.S.No.105/2002 of the Sub Court, Ottapalam. A perusal of the plaint would reveal that the suit is one for damages to a tune of Rs. 4 lakhs with interest. It is the case of the plaintiff therein that on account of the act of the defendants he sustained serious injuries which resulted in the loss of vision to him. It is also submitted that he had undergone surgery at Aravind Eye Hospital, Madurai and the witnesses sought to be summoned and the documents sought to be produced are absolutely relevant for the proper determination of the case. Order XVI Rule 19 deals with the summoning of witnesses who are not residents within the jurisdiction of the court. Order XVI Rule 19(b) provides that if the distance is less than 500 kilometres and it is connected by rail summons can be issued for persons to attend before court. A perusal of the materials would show that there is some force in the contention of the petitioner seeking to summon the Doctor and other witnesses.

I, therefore, set aside the order passed by the learned Sub Court and direct him to consider I.A.No.1801/2007 afresh in accordance with law after hearing both sides. Till it is reconsidered and orders passed, the Sub Judge is directed to keep the trial of the suit pending.

Writ petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-